

Trick 201-LH

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : ROBERT T. TRICK

SERIAL NO. : 08/100,019

JUL 2 1994

FILED : July 30, 1993

FOR : SEALED PACKAGE OF FILM FOR PRODUCING  
FRAMED PHOTOGRAPHS

ART UNIT : UNASSIGNED

EXAMINER : UNASSIGNED

APPLICANT

RECEIVED

OCT 1 1994

Hon. Commissioner of Patents & Trademarks  
Washington, D.C. 20231

OFFICE OF PETITIONS  
A/C PATENTS

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**

SIR:

Applicant respectfully requests that the Commissioner exercise his authority and withdraw the holding that the above-identified application is abandoned.

Applicant received a Notice (copy attached) dated May 12, 1994, in connection with the application alleging that the application was abandoned because no response had been filed to the previous Notice dated August 30, 1994. The previous Notice was issued because the original application had not included the original oath or declaration.

In response to the previous Notice, the following papers were timely mailed on September 24, 1993:

- (1) Communication Regarding Filing of Declaration on a Date Later than the Filing Date of the Application;
- (2) Combined Declaration and Power of Attorney (executed by Applicant Trick); and
- (3) Verified Statement Claiming Small Entity Status.

Copies of these papers are attached to complete the official filewrapper. The Commissioner should note that item (1) contains a properly executed certificate pursuant to 37 CFR §1.8, on which Leonard Horn, an attorney registered to practice before the Patent and Trademark Office, certifies that the correspondence was, in fact, mailed on September 24, 1993.

In view of the mailing certificate, 37 CFR §1.8(b) indicates that the correspondence will be considered timely and the holding of abandonment, therefore, withdrawn, provided the following conditions are met:

- (1) the Office is informed of the previous mailing of the correspondence promptly after becoming aware of the action complained of;
- (2) the Office is supplied with a copy of the previously mailed

correspondence; and

(3) a declaration is provided by someone attesting on a personal knowledge basis or *to the satisfaction of the Commissioner* to the previous timely mailing.

Applicant submits that conditions (1) and (2) already have been met.

With respect to condition (3), it is not possible to provide a declaration by someone with personal knowledge of the mailing of the correspondence. The person who actually mailed the correspondence is Ms. Madalyn Prevete, who is no longer employed by the firm of the undersigned. An attempt was made to have Ms. Prevete sign a suitable declaration, but she refused. The attempt is outlined in detail in the attached Declaration of Kurt Briscoe.

However, the records kept during the ordinary course of business show unequivocally that Ms. Prevete did, in fact, timely mail the correspondence. Since the entire mail function was intimately supervised by Ms. Nanci Manfredi, a declaration is provided by Ms. Manfredi indicating—to a reasonable certainty—that the correspondence was, in fact, timely mailed.

Additionally, an attempt was made to follow-up to make certain that the Patent Office actually received the Patent Office, but Applicant's representatives were

given incorrect information. This effort is outlined in the Declaration of Diana McDonald, attached. Ms. McDonald indicates that she telephoned Application Branch and was told that the declaration had been received. In view of the Notice of Abandonment, Ms. McDonald obviously received incorrect information.

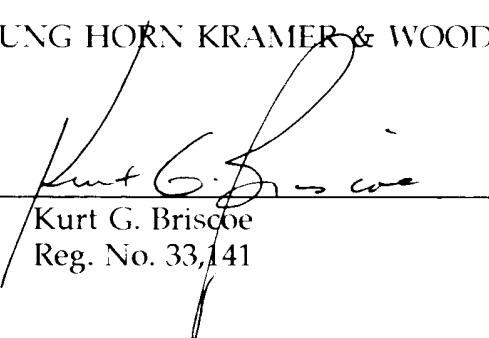
At any rate, it is believed that the foregoing establishes that the correspondence was, in fact, timely mailed and, therefore, the correspondence should be accepted and the holding of abandonment withdrawn.

Early and favorable action is earnestly solicited.

Respectfully submitted,

SPRUNG HORN KRAMER & WOODS

By

  
Kurt G. Briscoe  
Reg. No. 33,141

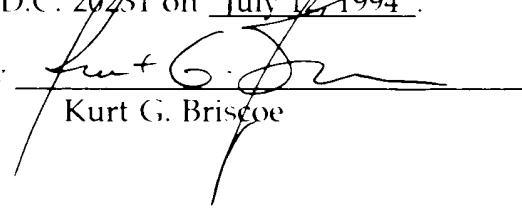
660 White Plains Road  
Fourth Floor  
Tarrytown, New York 10591-5144  
(914) 332-1700

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on July 12, 1994.

Date July 12, 1994

By

  
Kurt G. Briscoe